



**WEST VIRGINIA SECRETARY OF STATE**

**MAC WARNER**

**ADMINISTRATIVE LAW DIVISION**

**eFILED**

5/12/2022 2:33:09 PM

Office of West Virginia  
Secretary Of State

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE AND FILING WITH THE LEGISLATIVE RULE-  
MAKING REVIEW COMMITTEE**

AGENCY: Agriculture TITLE-SERIES: 61-08B  
RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No  
RULE NAME: 61-08B Schedule of Charges for Inspection Services: Fruit

**PRIMARY CONTACT**

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CITE STATUTORY AUTHORITY: §19-2-5, §19-1-4(k)

EXPLANATION OF THE STATUTORY AUTHORITY FOR THE LEGISLATIVE RULE, INCLUDING A DETAILED SUMMARY OF THE EFFECT OF EACH PROVISION OF THE LEGISLATIVE RULE WITH CITATION TO THE SPECIFIC STATUTORY PROVISION WHICH EMPOWERS THE AGENCY TO ENACT SUCH RULE PROVISION:

The Commissioner may conduct cooperative work with the USDA in inspecting and determining the grade and condition of farm produce at collecting centers and shipping points. The Commissioner shall also establish and publish a schedule of charges for such inspection and grading service; and it shall be his duty and he shall have authority to collect such charges for such inspection and grading services.

IS THIS FILING SOLELY FOR THE SUNSET PROVISION REQUIREMENTS IN W. VA. CODE §29A-3-19(e)? No

IF YES, DO YOU CERTIFY THAT THE ONLY CHANGES TO THE RULE ARE THE FILING DATE, EFFECTIVE DATE AND AN EXTENSION OF THE SUNSET DATE? No

DATE eFiled FOR NOTICE OF HEARING OR PUBLIC COMMENT PERIOD: 4/12/2022

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED: 5/11/2022

COMMENTS RECEIVED: No

(IF YES, PLEASE UPLOAD IN THE COMMENTS RECEIVED FIELD COMMENTS RECEIVED AND RESPONSES TO COMMENTS)

PUBLIC HEARING: No

(IF YES, PLEASE UPLOAD IN THE PUBLIC HEARING FIELD PERSONS WHO APPEARED AT THE HEARING(S) AND TRANSCRIPTS)

RELEVANT FEDERAL STATUTES OR REGULATIONS: Yes

WHAT OTHER NOTICE, INCLUDING ADVERTISING, DID YOU GIVE OF THE HEARING?

n/a

SUMMARY OF THE CONTENT OF THE LEGISLATIVE RULE, AND A DETAILED DESCRIPTION OF THE RULE'S PURPOSE AND ALL PROPOSED CHANGES TO THE RULE:

Establishes charges for Federal-State Inspection Service for Fruit through a Cooperative Agreement with USDA.

STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE RULE:

Changing the hourly rate for CAP, CHP audits that is established by USDA's Agricultural Marketing Service.

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED LEGISLATIVE RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

There will be an impact due to the raising of the fee. The amount of revenue will be determined by the number of audits.

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

At this time, we do not know the number of audits to estimate this impact.

C. ECONOMIC IMPACT OF THE LEGISLATIVE RULE ON THE STATE OR ITS RESIDENTS:

At this time, we do not know the number of audits to estimate the impact.

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2022 Increase/Decrease (use "-")	2023 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0	0	0
Personal Services	0	0	0
Current Expenses	0	0	0
Repairs and Alterations	0	0	0
Assets	0	0	0
Other	0	0	0
2. Estimated Total Revenues	0	0	0

E. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

At this time, we do not know the number of audits to estimate the impact.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Norman Bailey -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



TITLE 61  
LEGISLATIVE RULE  
STATE DEPARTMENT OF AGRICULTURE

SERIES 8B  
SCHEDULE OF CHARGES FOR INSPECTION SERVICES: FRUIT

**§61-8B-1. General.**

- 1.1. Scope. -- This legislative Rule establishes charges for Federal-State Inspection Service for Fruit.
- 1.2. Authority. -- W. Va. Code §19-2-5, §19-1-4(k).
- 1.3. Filing Date. -- ~~March 21, 2018~~
- 1.4. Effective Date. -- ~~March 21, 2018~~
- 1.5. Sunset Date. -- This rule shall terminate and have no further force or effect ~~March 21, 2023~~ on August 1, ten years after its effective date.

**§61-8B-2. Declaration of Policy.**

2.1. Fees for Inspection Services. -- W. Va. Code §19-2-5, provides that the Commissioner of Agriculture may, upon request, inspect and issue Federal-State Inspection Certificates, certify the quality, or condition for fruit produced, sold traded, exchanged, transported through the trade channels of West Virginia.

2.2. Schedule of Fees -- For the purpose of defraying the cost of inspection, the following schedule of fees apply:

2.2.1. Fruit Inspection For Processors:

Contract - Weekly Rate 40 hours per week	
Monday through Friday.....	\$640.00
Hourly Rate (1 hour minimum) .....	\$25.00
Overtime per hour.....	\$37.50

2.2.2. GAP.GHP/Audits:

As required by WVDA's cooperative agreement with USDA, WVDA will charge the hourly rate for GAP.GHP audits that is established by USDA's Agricultural Marketing Service.

Hourly rate (1 hour minimum) .....	\$108.00
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2.2.3. Fruit Inspection For Quality:

Contract - Weekly Rate 40 hours per week

Monday through Friday .....	\$500.00
Hourly rate (1 hour minimum) .....	\$25.00
Overtime per hour .....	\$37.50
Plus Current Mileage Rate	

2.2.4. Fruit Inspection Package Rate:

Per box, basket, carton 25 lbs or less .....	\$ 0.08
Per box, basket, carton 26 lbs or more .....	\$ 0.10
Hourly rate (1 hour minimum) .....	\$25.00
Overtime per hour .....	\$37.50

2.2.5. FVQ Form 294 (State Sanitary Inspection)

No charge if performed in conjunction with other inspections otherwise.....	\$ 0.05 per carton
Hourly rate (1 hour minimum) .....	\$25.00
Overtime per hour .....	\$37.50
Plus Current Mileage Rate	

2.2.6. Expenses:

The Department may bill all necessary expenses and mileage at the WV Department of Agriculture standard rate.

2.2.7. Overtime:

The Department shall charge at the overtime rate per hour for any time in excess of eight (8) hours any single day (Monday through Friday,) or forty (40) hours any single week, or for Saturday, Sunday and holidays.

2.2.8. Special Work:

The Department shall assess fees for irregular size container or special work on the basis of the fee schedule set forth in this rule as closely as practical.